

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Bell *et al.*

Confirmation No.: 7498

Appl. No. 10/743,649

Art Unit: 1645

Filed: December 23, 2003

Examiner: R. Zeman

For: **ONCOLYTIC VIRUS**

Atty. Docket: 1800-D2

Cust. No. 31976

Declaration Under 37 CFR § 1.131

We, John C. Bell, David F. Stojdl, Harold L. Atkins and Brian D. Lichty, do hereby declare and state:

1. We are the inventors of the subject matter described in the above identified utility patent application as claimed in all of the claims 1, 3, 7, 9-15, and 17-20, as amended by the Amendment as submitted herewith.

2. The subject matter of claims 1, 3, 7, 9-15, 17-20, as submitted herewith, was conceived and reduced to practice by us before September 16, 1999. As evidence of this fact, attached hereto as Exhibit 1 are copies of laboratory notebook pages showing the use of this invention. The dates have been redacted on these copies.

3. The experiment described in Exhibit 1, was performed in Canada.

4. Exhibit 1 shows an experiment comparing administration of VSV virus or cells infected with the VSV virus to melanoma tumor cells in a mouse. For example, the first page of Exhibit 1 in the upper left section shows a diagram depicting administration of “infected cells” or “purified virus” to tumor cells in a mouse.

Considered 3-11-2008

/RZ/

5. All statements made of my own knowledge are true, and all statements made on information and belief are believed to be true. I am aware the willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. § 1001) and may jeopardize the validity of this application and any patent issuing thereon.

John C. Bell

Date



David F. Stojdl

Jan 3, 2008
Date

Harold L. Atkins

Date

Brian D. Lichty

Date

5. All statements made of my own knowledge are true, and all statements made on information and belief are believed to be true. I am aware the willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. § 1001) and may jeopardize the validity of this application and any patent issuing thereon.

John C. Bell

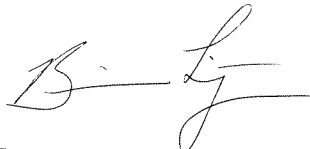
Date

David F. Stojdl

Date

Harold L. Atkins

Date



Brian D. Lichty

Decem,ber 19, 2007

Date

5. All statements made of my own knowledge are true, and all statements made on information and belief are believed to be true. I am aware the willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. § 1001) and may jeopardize the validity of this application and any patent issuing thereon.

John C. Bell

Date

David F. Stojdl

Date



Harold L. Atkins

21 Dec 2007

Date

Brian D. Lichty

Date

5. All statements made of my own knowledge are true, and all statements made on information and belief are believed to be true. I am aware the willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. § 1001) and may jeopardize the validity of this application and any patent issuing thereon.



John C. Bell



Date

David F. Stojdl

Date

Harold L. Atkins

Date

Brian D. Lichty

Date

Exhibit 1

NAME	EXP. NO.	ASSAY	NOTES																																																																												
			REDACTED																																																																												
PURPOSE		DATE																																																																													
<div style="display: flex; justify-content: space-around;"> <div style="width: 45%;"> <p><i>Int'l Cells</i></p> <p><i>Red Batt</i></p> <p>75 25 5000/5000</p> </div> <div style="width: 45%;"> <p><i>Purified Virus</i></p> <p><i>Bags</i></p> <p>10 μl 5x10⁶/ml</p> </div> </div> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%;">①</td> <td style="width: 40%;">4.2 x 4.9</td> <td style="width: 10%;">20.6</td> <td style="width: 45%;"></td> </tr> <tr> <td>②</td> <td>5.7 x 5.7</td> <td>32.5</td> <td></td> </tr> <tr> <td>③</td> <td>6.6 x 6.6</td> <td>43.6</td> <td></td> </tr> <tr> <td>④</td> <td>5.2 x 5.2</td> <td>27</td> <td></td> </tr> </table> <p>both animals receive 1x10⁵ units of Int'l A IP as a prophylactic</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%;">⑤</td> <td style="width: 40%;">10.9 x 10.9</td> <td style="width: 10%;">118.8</td> <td style="width: 45%;"></td> </tr> <tr> <td>⑥</td> <td>9.4 x 9.7</td> <td>96</td> <td></td> </tr> <tr> <td>⑦</td> <td>5.2 x 5.5</td> <td>28.6</td> <td></td> </tr> <tr> <td>⑧</td> <td>5.1 x 5.1</td> <td>26</td> <td></td> </tr> <tr> <td>①</td> <td>6.9 x 7.0</td> <td>48.3</td> <td></td> </tr> <tr> <td>②</td> <td>5.4 x 4.4</td> <td>23.8</td> <td></td> </tr> <tr> <td>③</td> <td>4.6 x 6.3</td> <td>29.0</td> <td></td> </tr> </table> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%;">④</td> <td style="width: 40%;">6.4 x 6.3</td> <td style="width: 10%;">40.3</td> <td style="width: 45%;"></td> </tr> <tr> <td>①</td> <td>6.8 x 6.8</td> <td>46.2</td> <td></td> </tr> <tr> <td>②</td> <td>2.7 x 3.1 (or less)</td> <td>8.4</td> <td></td> </tr> <tr> <td>④</td> <td>none</td> <td></td> <td></td> </tr> <tr> <td>⑤</td> <td>10.7 x 10.7</td> <td>114.5</td> <td></td> </tr> <tr> <td>⑦</td> <td>11.6 x 11.6</td> <td>134.6</td> <td></td> </tr> <tr> <td>⑥</td> <td>4.5 x 4.5</td> <td>20.3</td> <td></td> </tr> <tr> <td>⑧</td> <td>6.7 x 6.7</td> <td>44.9</td> <td></td> </tr> </table>				①	4.2 x 4.9	20.6		②	5.7 x 5.7	32.5		③	6.6 x 6.6	43.6		④	5.2 x 5.2	27		⑤	10.9 x 10.9	118.8		⑥	9.4 x 9.7	96		⑦	5.2 x 5.5	28.6		⑧	5.1 x 5.1	26		①	6.9 x 7.0	48.3		②	5.4 x 4.4	23.8		③	4.6 x 6.3	29.0		④	6.4 x 6.3	40.3		①	6.8 x 6.8	46.2		②	2.7 x 3.1 (or less)	8.4		④	none			⑤	10.7 x 10.7	114.5		⑦	11.6 x 11.6	134.6		⑥	4.5 x 4.5	20.3		⑧	6.7 x 6.7	44.9	
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NOTE: INSERT COVER UNDER YELLOW SHEET BEFORE WRITING

COLD SPRING HARBOR LABORATORY RESEARCH NOTEBOOK
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NAME	EXP. NO.	ASSAY
REDACTED		
PURPOSE	NOTES	
DATE REDACTED		
<u>Cage α</u> 7795 7596 7594 7593 7595		
<u>Cage β</u> 7793 7786 7787 7788 7794		
<u>Cage γ</u> 7586 7587 7588 7589 7590		
All infected ~ REDACTED		
Cage 26	WT	IFN 1×10^5 units } same pos 5×10^4 USV IN
27	WT	[IFN 1×10^5 u IP] 5×10^4 USV IN
24	PER -1-	IFN 1×10^5 units } same pos 5×10^4 USV IN
25	USV IN	charge 2 PER7-
29	WT	5×10^4 USV
30	IFN 1×10^5 units	USV 5×10^4 cage X
SIGNATURE		

NOTE: INSERT COVER UNDER YELLOW SHEET BEFORE WRITING

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